

GARY T. SUHRIE

IBLA 83-149

Decided August 2, 1983

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease application W-78280.

Appeal dismissed.

1. Appeals--Rules of Practice: Appeals: Dismissal--Rules of Practice:  
Appeals: Timely Filing

Notice of appeal must be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. The timely filing of a notice of appeal is jurisdictional and failure to file the appeal within the time allowed requires dismissal of the appeal.

APPEARANCES: Gary T. Suhrie, pro se.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

The Wyoming State Office, Bureau of Land Management (BLM), by decision of September 27, 1982, rejected Gary T. Suhrie's simultaneously filed oil and gas lease application, W-78280. The decision was served on Suhrie on October 8, 1982, and the decision noted that Suhrie was allowed the right of appeal to this Board in accordance with the regulations in 43 CFR Part 4, Subpart E. Notice of appeal was filed by Suhrie with BLM on November 15, 1982. The envelope in which the notice of appeal was mailed was postmarked November 11, 1982, 34 days after the service of the decision.

[1] The regulations require that a notice of appeal be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. 43 CFR 4.411(a). The regulations, 43 CFR 4.401(a), provide that a delay in filing will be waived if the document is filed not later than 10 days after it was required to be filed and it is determined that the document was transmitted or probably transmitted to the office in which the filing is required before the end of the period in which it was required to be filed. This Board has held that the timely filing of a notice of appeal is required to establish the jurisdiction of the Board to

review the decision below and that the failure to file the appeal within the time allowed mandates dismissal of the appeal. Ray Mallory, 68 IBLA 189 (1982); Madison D. Locke, 65 IBLA 122 (1982); Reg Whitson, 55 IBLA 5 (1981). Although this Board is generally reluctant to take any action which would preclude review of appeals on the merits, the purpose of the rule is to establish a definite time when administrative proceedings regarding a claim are at an end, in order to protect other parties to the proceedings and the public interest. Strict adherence to the rule is required. See Browder v. Director, Ill. Dept. of Corrections, 434 U.S. 257, 264 (1978).

Since appellant did not file notice of appeal of the September 27, 1982, decision of BLM within the 30-day period prescribed by regulation, the BLM decision became final. Appellant may not invoke the grace period regulation, 43 CFR 4.401, since based on the postmark date, the notice of appeal was not transmitted before the end of the 30-day period.

Accordingly, pursuant to the authority delegated to the Board of Land appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

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Bruce R. Harris  
Administrative Judge

We concur:

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James L. Burski  
Administrative Judge

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R. W. Mullen  
Administrative Judge

